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21 **UNITED STATES DISTRICT COURT**

22 **DISTRICT OF NEVADA**

23 MARK HUNT, an individual,

24 Plaintiff,

25 vs.

26 ZUFFA, LLC d/b/a ULTIMATE FIGHTING
27 CHAMPIONSHIP, a Nevada limited liability
28 Company; BROCK LESNAR, an individual;
and DANA WHITE, an individual; and DOES
1-50, inclusive,

29 Defendants.

30 Case No. 2:17-cv-00085-JAD-CWH

31 **DEFENDANT BROCK LESNAR'S
32 REQUEST FOR JUDICIAL NOTICE
33 PURSUANT TO FEDERAL RULES OF
34 EVIDENCE RULE 201**

35 **[Filed concurrently with Motion to Dismiss
36 Pursuant to Fed. R. Civ. P. 12(b)(6)]**

37 In support of his Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) under Federal
38 Rules of Evidence Rule 201 (Rule 201) Defendant Brock Lesnar respectfully requests that the
39 Court consider and/or take judicial notice of the following documents pursuant to Rule 201.

40 Ex. A – UFC Anti-Doping Policy

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1 Ex. B – June 7, 2016 *Yahoo! Sports* article explaining and confirming Brock Lesnar's
 2 UFC ADP waiver
 3 Ex. C – Notice of Hearing and Notice of Disciplinary Complaint to Brock Lesnar from
 4 the Nevada State Athletic Commission
 5 Ex. D – Brock Lesnar's Answer and Affirmative Defenses to the NSAC Complaint
 6 Ex. E – NSAC Hearing Continuance No. 1
 7 Ex. F – NSAC Hearing Continuance No. 2
 8 Ex. G – NSAC Adjudication Agreement and Order
 9 Ex. H – UFC/USADA Press Release on Sanction of Brock Lesnar
 10 Ex. I – *MMA Fighting* article reporting Brock Lesnar's retirement from the UFC
 11 Ex. J – *MMA Fighting* article reporting Mark Hunt's injuries suffered against Alistair
 12 Overeem in UFC 209
 13 Ex. K – Plaintiff Mark Hunt's Fight Record
 14 Ex. L – *MMA Fighting* article reporting Mark Hunt's pre-fight comments about Brock
 15 Lesnar.

16 **POINTS AND AUTHORITIES**

17 **SUMMARY**

18 Under Rule 201, facts appropriate for judicial notices are those "not subject to
 19 reasonable dispute in that they are either (1) generally known within the territorial jurisdiction
 20 of the trial court; or (2) capable of accurate and ready determination by resort to sources whose
 21 accuracy cannot reasonably be questioned." F.R.E. 201(b). The Court may take judicial notice
 22 of its own records and records of other court cases. "[A]" party requesting judicial notice bears
 23 the burden of persuading the trial judge that the adjudicative fact sought to be noticed is in fact
 24 proper for notice under FRE 201, the party must (1) persuade the court that the particular fact is
 25 not reasonably subject to dispute and is capable of immediate and accurate determination by
 26 resort to a source 'whose accuracy cannot reasonably be questioned'..." *Id.* at 781. In other
 27 words, "the fact must be one that only an unreasonable person would insist on disputing."
 28 United States v. Jones, 29 F. 3d 1549, 1553 (11th Cir. 1994).

1 For purposes of ruling on a Rule 12(b)(6) motion, the Court “accept[s] factual
2 allegations in the complaint as true and construe[s] the pleadings in the light most favorable to
3 the nonmoving party.” Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th
4 Cir. 2008). However, a court need not accept as true allegations contradicted by judicially
5 noticeable facts, Shwarz v. United States, 234 F.3d 428, 435 (9th Cir. 2000), and a “court may
6 look beyond the plaintiff’s complaint to matters of public record” without converting the Rule
7 12(b)(6) motion into one for summary judgment, Shaw v. Hahn, 56 F.3d 1061, 1064 (9th Cir.
8 2011).

9 Defendant therefore respectfully requests the Court to consider the following documents
10 attached hereto and referenced in the Declaration of Peter S. Christiansen filed concurrently
11 herewith in ruling on his Motion to Dismiss: (1) the UFC Anti-Doping Policy (Exhibit A); (2) a
12 June 7, 2016 *Yahoo! Sports* article explaining and confirming Brock Lesnar's UFC ADP waiver
13 (Exhibit B); (3) the Notice of Hearing and Notice of Disciplinary Complaint to Brock Lesnar
14 from the Nevada State Athletic Commission (Exhibit C); (4) Brock Lesnar's Answer and
15 Affirmative Defenses to the NSAC Complaint (Exhibit D); (5) the First Continuance granted by
16 NSAC in the matter of Brock Lesnar (Exhibit E); (6) the Second Continuance granted by NSAC
17 in the matter of Brock Lesnar (Exhibit F); (7) the NSAC Adjudication Agreement and Order
18 (Exhibit G); (8) UFC/USADA Press Release on Sanction of Brock Lesnar (Exhibit H); (9) an
19 article from *MMA Fighting* reporting Brock Lesnar's retirement from the UFC (Exhibit I); (10)
20 an article from *MMA Fighting* reporting Mark Hunt's injuries suffered against Alistair Overeem
21 in UFC 209 (Exhibit J); (11) Mark Hunt's fight history as reported by the UFC (Exhibit K); and
22 (12) an article from *MMA Fighting* reporting on Mark Hunt's pre-fight comments about Brock
23 Lesnar (Exhibit L).

ARGUMENT

25 **The Court has Discretion to Consider All Exhibits Submitted by Defendant Brock Lesnar**

26 Defendant Lesnar requests that the Court consider Exhibits A-L when ruling on his
27 Motion to Dismiss because they consist of (i) records of another Court case directly related to
28 Mr. Hunt's Complaint, (ii) records publicly available and capable of accurate and ready

1 determination by resort to sources whose accuracy cannot be reasonably questioned and (iii)
 2 records which are directly referenced by Mr. Hunt within his Complaint.

3 **Exhibit A** is a true and correct copy UFC Anti-Doping Policy (UFC ADP). The UFC
 4 ADP, effective July 2015 and administered by the United States Anti-Doping Agency
 5 (USADA), is publicly accessible at: <http://ufc.usada.org/wp-content/uploads/UFC-anti-doping-policy-EN.pdf>. Its governing law is the cornerstone of Brock Lesnar's participation in the
 6 USADA testing pool and its entire legitimacy is questioned by Mr. Hunt's Complaint.
 7

8 **Exhibit B** is a true and correct copy of a June 7, 2016 *Yahoo! Sports* article which
 9 explains and confirms Mr. Lesnar's waiver from the UFC ADP. It is publicly available at:
 10 <http://sports.yahoo.com/blogs/mma-cagewriter/brock-lesnar-granted-waiver-from-four-month-drug-testing-requirement-003253522.html>. The article, one of many on the subject, contains a
 11 plain explanation as to Rule 5.7.1 of the UFC ADP, which was enacted to cover situations
 12 where the strict application of the four-month notice rule would be manifestly unfair to the
 13 Athlete.
 14

15 **Exhibit C** is a true and correct copy of the Notice of Hearing and Notice of Disciplinary
 16 Complaint to Brock Lesnar from the Nevada State Athletic Commission. While UFC athletes
 17 are subject to penalties under the UFC ADP in cases of banned substance violations, they
 18 remain subject to the penalties of the Nevada State Athletic Commission. Mr. Hunt directly
 19 references Mr. Lensar's adjudication under the NSAC within his Complaint. See Comp. ¶¶ 85-
 20 87.

21 **Exhibit D** is a true and correct copy of Brock Lesnar's Answer and Affirmative
 22 Defenses to the NSAC Complaint. While UFC athletes are subject to penalties under the UFC
 23 ADP in cases of banned substance violations, they remain subject to the penalties of the Nevada
 24 State Athletic Commission. Mr. Hunt directly references Mr. Lensar's adjudication under the
 25 NSAC within his Complaint. See Comp. ¶¶ 85-87.

26 **Exhibit E** is a true and correct copy of Brock Lesnar's Motion for Continuance dated
 27 September 19, 2016. Mr. Hunt directly references Mr. Lensar's adjudication under the NSAC
 28 within his Complaint. See Comp. ¶¶ 85-87.

1 **Exhibit F** is a true and correct copy of Brock Lesnar's Motion for Continuance dated
2 October 25, 2016. Mr. Hunt directly references Mr. Lensar's adjudication under the NSAC
3 within his Complaint. See Comp. ¶¶ 85-87.

4 **Exhibit G** is a true and correct copy of the fully executed NSAC Adjudication
5 Agreement and Order. Mr. Hunt directly references Mr. Lensar's adjudication under the NSAC
6 within his Complaint. See Comp. ¶¶ 85-87.

7 **Exhibit H** is a true and correct copy of the press release published by the UFC and
8 USADA on January 4, 2017 following its sanction of Brock Lesnar. The press release is
9 available at: <http://ufc.usada.org/brock-lesnar-receives-doping-sanction/>.

10 **Exhibit I** is a true and correct copy of an *MMA Fighting* article dated February 14, 2017
11 which reported that Brock Lesnar notified the UFC of his retirement from MMA. The article is
12 publicly available at: <http://www.mmafighting.com/2017/2/14/14613038/brock-lesnar-notifies-ufc-of-his-retirement-from-mma>. It is illustrative as to the scope of Mr. Lesnar's relationship
13 with the UFC and confirms that Mr. Lesnar is prevented from competing in an MMA event ever
14 again until he serves the duration of his suspension.

15 **Exhibit J** is a true and correct copy of an *MMA Fighting* article dated March 4, 2017
16 which reported that Plaintiff Hunt fought Alistair Overeem in the opening fight of UFC 209's
17 main card event. The article is public available at:
18 <http://www.mmafighting.com/2017/3/5/14819284/mark-hunt-says-he-suffered-broken-tibia-at-ufc-209>. It is illustrative as to the facts that (i) at the time of the fight, it had been nearly five
19 years since Mr. Overeem's positive test; (ii) Mr. Hunt had knowledge of Mr. Overeem's
20 positive test; and (iii) Mr. Hunt agreed to fight Mr. Overeem anyway, a mere two months after
21 filing his complaint.

22 **Exhibit K** is a true and correct copy of Mark Hunt's fight history as reported by the
23 UFC. It is publicly available at <http://www.ufc.com/fighter/mark-hunt>.

24 **Exhibit L** is a true and correct copy of an *MMA Fighting* article dated June 9, 2016
25 which reported that Mr. Hunt said in reference to Defendant Lesnar, "I think he's juiced to the
26 gills." The article is publicly available at

1 <http://www.mmafighting.com/2016/6/9/11894188/mark-hunt-on-brock-lesnar-i-think-hes->
2 juiced-to-the-gills-ufc-200. It is illustrative of the fact that Plaintiff Hunt already believed to be
3 Mr. Lesnar a “doper,” yet insisted he would fight Mr. Lesnar regardless, and moreover, that he
4 would “knock [Mr. Lesnar] out.”

5 **CONCLUSION**

6 For the foregoing reasons, Defendant respectfully requests that the Court consider
7 and/or take judicial notice of the subject documents when ruling on Defendant’s Motion to
8 Dismiss the Complaint.

9 RESPECTFULLY SUBMITTED this 23rd day of March, 2017.

10 CHRISTIANSEN LAW OFFICES

11 By

12 
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CERTIFICATE OF SERVICE

2 Pursuant to Federal Rule of Civil Procedure 5 and the Court's Local Rules, the
3 undersigned hereby certifies that on this day, March 23, 2017, a copy of the foregoing
4 document entitled ***DEFENDANT BROCK LESNAR'S REQUEST FOR JUDICAL NOTICE***
5 ***PURSUANT TO FEDERAL RULES OF EVIDENCE RULE 201*** was filed and served
6 through the Court's electronic filing system (CM/ECF) upon all registered parties and their
7 counsel.

An employee of Christiansen Law Offices

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